REMARKS

In the Office Action,[1] the Examiner took the following actions:

1) provisionally rejected claims 1, 3, 6, 7, 12, 14, 16, 18 on the ground of non-statutory obviousness-type double patenting as being unpatentable over claims 6, 10, 12, and 14 of co-pending Application No. 10/658,684 ('684 application);

2) rejected claims 1, 3-8, 10-12, 14-16, 18, and 19 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 7,007,278 to Gungabeesoon ("*Gungabeesoon*"); and

3) rejected claims 2, 9, 13, and 17 under 35 U.S.C. § 103(a) as being unpatentable over *Gungabeesoon* in view of "Database Performance in the Real World: TPC-D and SAP R/3" by Doppelhammer et al. ("*Doppelhammer*").

Provisional Non-Statutory Obviousness-Type Double Patenting Rejection

Applicants respectfully traverse the provisional non-statutory obviousness-type double patenting rejection of claims 1, 3, 6, 7, 12, 14, 16, and 18, and request that the rejection be held in abeyance. The '684 application is currently pending and, thus, no double patenting circumstances can arise until a patent is granted. Since no patent has apparently issued from the '684 application, Applicants respectfully request that the provisional rejection be held in abeyance and any resolution in the form of a terminal disclaimer or otherwise be deferred.

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[1] The Office Action contains a number of statements reflecting characterizations of the related art and the claims. Regardless of whether any such statement is identified herein, Applicants decline to automatically subscribe to any statement or characterization in the Office Action.

Rejection of Claims 1, 3-8, 10-12, 14-16, 18, and 19 under 35 U.S.C. § 102(e)

Applicants respectfully traverse the rejection of claims 1, 3-8, 10-12, 14-16, 18, and 19 under 35 U.S.C. § 102(e) as being anticipated by *Gungabeesoon*. In order to properly establish that *Gungabeesoon* anticipates Applicants' claimed invention under 35 U.S.C. § 102, each and every element of each of the claims in issue must be found, either expressly described or under principles of inherency, in that single reference. Furthermore, "[t]he identical invention must be shown in as complete detail as is contained in the . . . claim." *See* M.P.E.P. § 2131, quoting *Richardson v. Suzuki Motor Co.*, 868 F.2d 1126, 1236, 9 U.S.P.Q.2d 1913, 1920 (Fed. Cir. 1989). Applicants respectfully submit that *Gungabeesoon* fails to teach each and every element of Applicants' claims.

Independent claim 1 recites a combination including, for example, "receiving . . . run-time code . . . generated from a converted design-time representation [which is] generated from an original design-time representation." *Gungabeesoon* does not teach or suggest at least this element of claim 1.

The Examiner argues that *Gungabeesoon* "shows . . . original design-time representation[] . . . in the form of screen definition[]" (Office Action, page 7) and "shows . . . converted design-time representation[] . . . in the form of user interface pages" (Office Action, page 6). Even assuming these characterizations of *Gungabeesoon* by the Examiner are correct, which Applicants do not concede, *Gungabeesoon* fails to disclose the claimed "run-time code."

The Examiner argues that *Gungabeesoon* "shows . . . run-time code . . . in the form of a JavaServer Page." Office Action, page 6. This is incorrect. *Gungabeesoon*

discloses that "prior to runtime, the proprietary screen definitions 440 are . . . converted at step 510 to . . . network pages [520]." *Gungabeesoon*, col. 8, lines 48-54; *see also* Fig. 5, refs. 440, 510, and 520. According to *Gungabeesoon*, both the user interface pages and the JavaServer Pages are examples of network page 520. *See Gungabeesoon*, Fig. 5 (Network Pages <u>520</u>); col. 9, line 3 ("JavaServer Pages <u>520</u>"); col. 9, line 14 ("user interface pages <u>520</u>"); col. 2, lines 65-66 ("The network pages may be JavaServer Pages."); col. 11, line 3 ("the network page, e.g., the Java Server Page"); col. 11, line 50 ("the network pages, such as JavaServer Pages"); col. 3, lines 23-25 ("convert the . . . screen definitions . . . to the <u>network</u> user-interface <u>pages</u>"); col. 12, lines 16-17 ("converting a . . . screen definition to a . . . user interface page").

Therefore, the Examiner cannot argue that one example of *Gungabeesoon's* network pages 520 (i.e., user interface pages 520) corresponds to the claimed "converted design-time representation" and another example of network pages 520 (i.e., JavaServer Pages 520) corresponds to the claimed "run-time code," when network pages 520, user interface pages 520, and JavaServer Pages 520 are one in the same. Assuming the above-noted characterization of *Gungabeesoon* by the Examiner is correct, network pages 520, user interface pages 520, and JavaServer Pages 520 constitute, at best, a teaching of the claimed "converted design-time representation." However, *Gungabeesoon* fails to disclose "run-time code being generated from a converted design-time representation," as recited in claim 1.

Since *Gungabeesoon* fails to teach or suggest each and every element of claim 1, *Gungabeesoon* cannot anticipate claim 1. Furthermore, independent claims 8, 12, and 16, although different in scope from claim 1, are allowable over *Gungabeesoon* for

at least reasons similar to those given above for claim 1. In addition, dependent claims 3-7, 10, 11, 14, 15, 18, and 19 are allowable over *Gungabeesoon* at least by virtue of their dependence from allowable base claims 1, 8, 12, and 16. Accordingly, Applicants respectfully request the Examiner to reconsider and withdraw the rejection of claims 1, 3-8, 10-12, 14-16, 18, and 19 under 35 U.S.C. § 102(e) as being anticipated by *Gungabeesoon*.

Rejection of Claims 2, 9, 13, and 17 under 35 U.S.C. § 103(a)

Applicants respectfully traverse the rejection of claims 2, 9, 13, and 17 under 35 U.S.C. § 103(a) as being unpatentable over *Gungabeesoon* in view of *Doppelhammer*. A *prima facie* case of obviousness has not been established.

To establish a *prima facie* case of obviousness, the prior art (taken separately or in combination) must teach or suggest all of the claim limitations. *See* M.P.E.P. § 2142, 8th Ed., Rev. 5 (August 2006). Moreover, "in formulating a rejection under 35 U.S.C. § 103(a) based upon a combination of prior art elements, it remains necessary to identify the reason why a person of ordinary skill in the art would have combined the prior art elements in the manner claimed." USPTO Memorandum from Margaret A. Focarino, Deputy Commissioner for Patent Operations, May 3, 2007, page 2.

In the Office Action, the Examiner cited *Doppelhammer* as a teaching of several elements of claims 2, 9, 13, and 17 in support of this rejection. *See* Office Action, pp. 15-17. Even assuming that the Examiner's characterization of *Doppelhammer* is correct, which Applicants do not concede, *Doppelhammer* fails to cure the above-noted deficiencies of *Gungabeesoon*. That is, *Doppelhammer* also does not teach or suggest

"receiving . . . run-time code . . . generated from a converted design-time representation [which is] generated from an original design-time representation." Therefore, the prior art, taken separately or in proper combination, fails to teach each and every element recited in independent claims 1, 8, 12, and 16, and required by dependent claims 2, 9, 13, and 17. Accordingly, a *prima facie* case of obviousness has not been established. Therefore, Applicants respectfully request the Examiner to withdraw the rejection of claims 2, 9, 13, and 17 under 35 U.S.C. § 103(a).
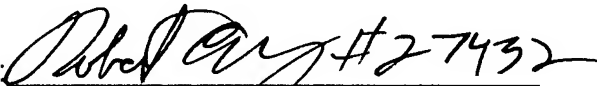
Conclusion

In view of the foregoing remarks, Applicants respectfully request reconsideration of this application and the timely allowance of the pending claims.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

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Dated: August 28, 2007   By:

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